

AG Contract No.: KR03-1761TRN
ADOT ECS File No.: JPA 03-114
TRACS No: HF095 01C
Project: HRF-SAF-0-795
Section: 20th Avenue

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SAFFORD

THIS AGREEMENT is entered into 4th February, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, (the "State") and the CITY acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 & 28-6993(g) to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The State has approved the exchange of \$2,699,528.00 Highway User Revenue Funds (HURF) in Fiscal Year 2005 to the City for the construction of improvements to 20TH Avenue, roadway reconstruction and such funds will be repaid to the State by withholding from the Southeastern Arizona Governments Organization (SEAGO) federal funds and the obligation authority for federal funds in the amount of \$2,846,783.00 in Fiscal Year 2005.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO. 26636
Filed with the Secretary of State
Date Filed: 02/04/04
Janice K. Drewes
Secretary of State
By: Tim D. Schenewald

II. SCOPE OF WORK

1. The City will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the project. Administer same, and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project construction cost, at the start of construction.

d. Invoice the State for thirty percent of the project cost, at the thirty percent and sixty percent project completion stages.

e. Upon completion, approve and accept the project as complete and provide maintenance. Provide the State with a letter documenting the notice of the approval and acceptance of the project.

f. Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage after the City, SEAGO, and the State (ADOT) representatives have completed final project review.

2. The State will:

a. Within 30 days after receipt and approval of an invoice, advance the City HURF funds in accordance with paragraph II, 1c, d, and f. above.

b. Withhold from SEAGO, federal funds and the obligation authority of federal funds \$2,846,783 00 in fiscal year 2005 for construction.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4 This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

5 The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. Non-Availability of Funds: Every payment obligation of State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

7. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 6 16E
Phoenix, AZ 85007
FAX 602-712-7424

City of Safford
Public Works Director
P.O. Box 272
City of Safford, AZ 85548-0272

10. In accordance with Arizona Revised Statutes Section 11-952, D, attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF SAFFORD

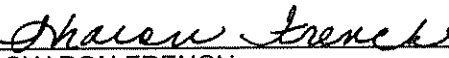
By 
VAN TALLEY
Mayor

STATE OF ARIZONA

Department of Transportation

By 
DALE BUSKIRK, Director
Transportation Planning Division

ATTEST:

By 
SHARON FRENCH
City Clerk

G:03-114-Safford-20th Avenue
31Dec2003-ly

FINAL VERSION RECOMMENDED FOR ADOPTION
November 26, 2001

RESOLUTION NO. 01-054

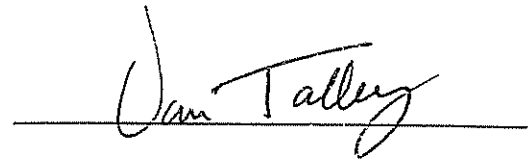
A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAFFORD APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF THATCHER FOR THE IMPROVEMENT, MAINTENANCE AND LAW ENFORCEMENT OF AND ON 20TH AVENUE AND AUTHORIZING THE MAYOR AND CITY STAFF TO SIGN AND EXECUTE THE AGREEMENT.

WHEREAS, The City of Safford desires to improve 20th Ave from Relation St to Highway 70 cooperatively with the Town of Thatcher the County of Graham; and

WHEREAS, the City of Safford has the authority to enter into an intergovernmental agreement with the one or both of these entities to plan for and complete improvements;

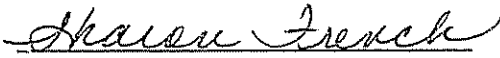
NOW THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Safford, to approve an intergovernmental agreement for this purpose and to authorize the Mayor and City Staff to sign and execute the agreement.

PASSED, ADOPTED AND APPROVED by the Mayor and City Council of the City of Safford this 26th day of November 2001.

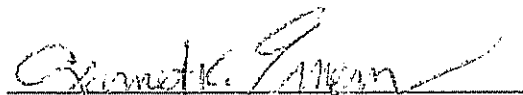
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Van Talley, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read "Sharon French", is written over a horizontal line.
Sharon French, City Clerk

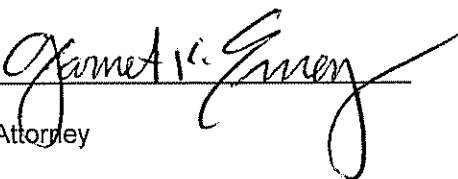
APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Garnet K. Emery", is written over a horizontal line.
Garnet K. Emery, City Attorney

APPROVAL OF THE CITY OF SAFFORD ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF SAFFORD, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 13th day of Jan, 2004



City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8855

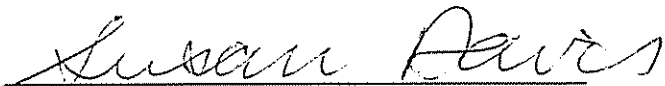
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR03-1761TRN (JPA 03-114), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED 1-26, 2004.

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:dgr
Attachment
827517